

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DAVID FELIMON CERDA,	)	No. 17-9023
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CHICAGO CUBS BASEBALL CLUB, LLC,	)	
	)	
Defendant.	)	

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO EXCLUDE  
PLAINTIFF'S TRIAL EXHIBITS AND TO DEEM ADMITTED  
DEFENDANT'S STATEMENT OF UNCONTESTED FACTS AS ADMITTED

NOW COMES the Plaintiff, David Felimon Cerda, by his attorney, and states as follows:

1. Plaintiffs proposed trial exhibits consist almost exclusively of photographs. These photographs fall into three categories: (1) photographs of plaintiff attending baseball games and photos of Wrigley Field during a game (27 photos), (2) photographs of plaintiff's inspection of Wrigley Field on August 5, 2020, and (3) photographs of plaintiff's inspection of Wrigley Field on March 7, 2023. Of the first two categories, defendant had plaintiff's photographs for years. Furthermore, of plaintiff's August 5, 2020 trial exhibit photographs, defendant listed many of the same photographs as defendant's own trial exhibits.

2. Plaintiff did not list on March 17, 2022 all of the photographs taken by plaintiff in discovery as exhibits but referred to the three categories above and listed the photographs individually. Plaintiff pared down this list of over 500 photographs to 201

proposed trial exhibits

3. Before the parties' Proposed Pretrial Order was due to be submitted to the Court, Plaintiff produced a table of Plaintiff's Trial Exhibits with a column for defendant to enter its objections.

4. Defendant had an opportunity to review plaintiff's proposed trial exhibits and indeed entered defendant's objections into the table where defendant saw fit. A table of Plaintiff's Trial Exhibits with Defendant's Objection was submitted with the parties Proposed Pre-Trial Order as Exhibit B. Accordingly, defendant's Motion to Exclude is now moot.

5. When plaintiff submitted his draft pretrial materials to defendant on March 17, 2023, he did not understand that at that time he was also to respond to Defendant's Statement of Uncontested Facts. Plaintiff submits that defendant's objection is misplaced. Subsequently, plaintiff did so and the document is attached to the parties' proposed Pretrial Order as Exhibit G.

WHEREFORE, plaintiff requests that defendant's Motion be denied

Respectfully submitted,

s/David A. Cerda  
Attorney for the Plaintiff

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